

104TH CONGRESS
1ST SESSION

H. R. 668

To control crime by further streamlining deportation of criminal aliens.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 25, 1995

Mr. McCOLLUM introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To control crime by further streamlining deportation of
criminal aliens.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Criminal Alien Deportation Improvements Act of 1995”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Additional expansion of definition of aggravated felony.

Sec. 3. Deportation procedures for certain criminal aliens who are not perma-
 nent residents.

Sec. 4. Restricting the defense to exclusion based on 7 years permanent resi-
 dence for certain criminal aliens.

Sec. 5. Limitation on collateral attacks on underlying deportation order.

Sec. 6. Criminal alien tracking center.

- Sec. 7. Establishing certain alien smuggling-related crimes as RICO-predicate offenses.
 Sec. 8. Wiretap authority for alien smuggling investigations.
 Sec. 9. Miscellaneous provisions.
 Sec. 10. Construction of expedited deportation requirements.

1 **SEC. 2. ADDITIONAL EXPANSION OF DEFINITION OF AG-**
 2 **GRAVATED FELONY.**

3 (a) IN GENERAL.—Section 101(a)(43) of the Immi-
 4 gration and Nationality Act (8 U.S.C. 1101(a)(43)), as
 5 amended by section 222 of the Immigration Technical
 6 Amendments Act of 1994 (Public Law 103–416), is
 7 amended—

8 (1) in subparagraph (J), by inserting “, or an
 9 offense described in section 1084 (if it is a second
 10 or subsequent offense) or 1955 of that title (relating
 11 to gambling offenses),” after “corrupt organiza-
 12 tions)”;

13 (2) in subparagraph (K)—

14 (A) by striking “or” at the end of clause

15 (i),

16 (B) by redesignating clause (ii) as clause

17 (iii), and

18 (C) by inserting after clause (i) the follow-
 19 ing new clause:

20 “(ii) is described in section 2421,
 21 2422, or 2423 of title 18, United States
 22 Code (relating to transportation for the

1 purpose of prostitution) for commercial ad-
2 vantage; or”;

3 (3) by amending subparagraph (N) to read as
4 follows:

5 “(N) an offense described in paragraph
6 (1)(A) or (2) of section 274(a) (relating to alien
7 smuggling) for which the term of imprisonment
8 imposed (regardless of any suspension of im-
9 prisonment) is at least 5 years;”;

10 (4) by amending subparagraph (O) to read as
11 follows:

12 “(O) an offense (i) which either is falsely
13 making, forging, counterfeiting, mutilating, or
14 altering a passport or instrument in violation of
15 section 1543 of title 18, United States Code, or
16 is described in section 1546(a) of such title (re-
17 lating to document fraud) and (ii) for which the
18 term of imprisonment imposed (regardless of
19 any suspension of such imprisonment) is at
20 least 18 months;”

21 (5) in subparagraph (P), by striking “15 years”
22 and inserting “5 years”, and by striking “and” at
23 the end;

1 (6) by redesignating subparagraphs (O), (P),
2 and (Q) as subparagraphs (P), (Q), and (U), respec-
3 tively;

4 (7) by inserting after subparagraph (N) the fol-
5 lowing new subparagraph:

6 “(O) an offense described in section 275(a)
7 or 276 committed by an alien who was pre-
8 viously deported on the basis of a conviction for
9 an offense described in another subparagraph
10 of this paragraph;” and

11 (8) by inserting after subparagraph (Q), as so
12 redesignated, the following new subparagraphs:

13 “(R) an offense relating to commercial
14 bribery, counterfeiting, forgery, or trafficking in
15 vehicles the identification numbers of which
16 have been altered for which a sentence of 5
17 years’ imprisonment or more may be imposed;

18 “(S) an offense relating to obstruction of
19 justice, perjury or subornation of perjury, or
20 bribery of a witness, for which a sentence of 5
21 years’ imprisonment or more may be imposed;

22 “(T) an offense relating to a failure to ap-
23 pear before a court pursuant to a court order
24 to answer to or dispose of a charge of a felony

1 for which a sentence of 2 years' imprisonment
2 or more may be imposed; and”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 subsection (a) shall apply to convictions entered on or
5 after the date of the enactment of this Act, except that
6 the amendment made by subsection (a)(3) shall take effect
7 as if included in the enactment of section 222 of the Immi-
8 gration Technical Amendments Act of 1994.

9 **SEC. 3. DEPORTATION PROCEDURES FOR CERTAIN CRIMI-**
10 **NAL ALIENS WHO ARE NOT PERMANENT**
11 **RESIDENTS.**

12 (a) ADMINISTRATIVE HEARINGS.—Section 242A(b)
13 of the Immigration and Nationality Act (8 U.S.C.
14 1252a(b)), as added by section 130004(a) of the Violent
15 Crime Control and Law Enforcement Act of 1994 (Public
16 Law 103–322), is amended—

17 (1) in paragraph (2)—

18 (A) by striking “and” at the end of sub-
19 paragraph (A) and inserting “or”, and

20 (B) by amending subparagraph (B) to read
21 as follows:

22 “(B) had permanent resident status on a
23 conditional basis (as described in section 216)
24 at the time that proceedings under this section
25 commenced.”;

1 (2) in paragraph (3), by striking “30 calendar
2 days” and inserting “14 calendar days”;

3 (3) in paragraph (4)(B), by striking
4 “proccedings” and inserting “proceedings”; and

5 (4) by adding at the end the following new
6 paragraph:

7 “(5) No alien described in this section shall be
8 eligible for any relief from deportation that the At-
9 torney General may grant in the Attorney General’s
10 discretion.”.

11 (b) LIMIT ON JUDICIAL REVIEW.—Subsection (d) of
12 section 106 of the Immigration and Nationality Act (8
13 U.S.C. 1105a), as added by section 130004(b) of the Vio-
14 lent Crime Control and Law Enforcement Act of 1994
15 (Public Law 103–322), is amended to read as follows:

16 “(d) Notwithstanding subsection (c), a petition for
17 review or for habeas corpus on behalf of an alien described
18 in section 242A(c) may only challenge whether the alien
19 is in fact an alien described in such section, and no court
20 shall have jurisdiction to review any other issue.”.

21 (c) PRESUMPTION OF DEPORTABILITY.—Section
22 242A of the Immigration and Nationality Act (8 U.S.C.
23 1252a) is amended by inserting after subsection (b) the
24 following new subsection:

1 “(c) PRESUMPTION OF DEPORTABILITY.—An alien
2 convicted of an aggravated felony shall be conclusively pre-
3 sumed to be deportable from the United States.”.

4 (d) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to all aliens against whom deporta-
6 tion proceedings are initiated after the date of the enact-
7 ment of this Act.

8 **SEC. 4. RESTRICTING THE DEFENSE TO EXCLUSION BASED**
9 **ON 7 YEARS PERMANENT RESIDENCE FOR**
10 **CERTAIN CRIMINAL ALIENS.**

11 The last sentence of section 212(c) of the Immigra-
12 tion and Nationality Act (8 U.S.C. 1182(c)) is amended
13 by striking “has served for such felony or felonies” and
14 all that follows through the period and inserting “has been
15 sentenced for such felony or felonies to a term of imprison-
16 ment of at least 5 years, if the time for appealing such
17 conviction or sentence has expired and the sentence has
18 become final.”.

19 **SEC. 5. LIMITATION ON COLLATERAL ATTACKS ON UNDER-**
20 **LYING DEPORTATION ORDER.**

21 (a) IN GENERAL.—Section 276 of the Immigration
22 and Nationality Act (8 U.S.C. 1326) is amended by add-
23 ing at the end the following new subsection:

24 “(c) In a criminal proceeding under this section, an
25 alien may not challenge the validity of the deportation

1 order described in subsection (a)(1) or subsection (b) un-
2 less the alien demonstrates that—

3 “(1) the alien exhausted any administrative
4 remedies that may have been available to seek relief
5 against the order;

6 “(2) the deportation proceedings at which the
7 order was issued improperly deprived the alien of the
8 opportunity for judicial review; and

9 “(3) the entry of the order was fundamentally
10 unfair.”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 subsection (a) shall apply to criminal proceedings initiated
13 after the date of the enactment of this Act.

14 **SEC. 6. CRIMINAL ALIEN TRACKING CENTER.**

15 Section 130002(a) of the Violent Crime Control and
16 Law Enforcement Act of 1994 (Public Law 103–312) is
17 amended to read as follows:

18 “(a) OPERATION AND PURPOSE.—The Commissioner
19 of Immigration and Naturalization shall, under the au-
20 thority of section 242(a)(3)(A) of the Immigration and
21 Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a crimi-
22 nal alien tracking center. The criminal alien tracking cen-
23 ter shall be used to assist Federal, State, and local law
24 enforcement agencies in identifying and locating aliens
25 who may be subject to deportation by reason of their con-

1 viction of aggravated felonies. The Attorney General may
2 direct the Director of the Federal Bureau of Investigation,
3 and may request the heads of other agencies, to assist the
4 Commissioner in the operation of the tracking center to
5 the extent the Attorney General determines it to be appro-
6 priate.”.

7 **SEC. 7. ESTABLISHING CERTAIN ALIEN SMUGGLING-RELAT-**
8 **ED CRIMES AS RICO-PREDICATE OFFENSES.**

9 Section 1961(1) of title 18, United States Code, is
10 amended—

11 (1) by inserting “section 1028 (relating to
12 fraud and related activity in connection with identi-
13 fication documents) if the act indictable under sec-
14 tion 1028 was committed for the purpose of finan-
15 cial gain,” before “section 1029”;

16 (2) by inserting “section 1542 (relating to false
17 statement in application and use of passport) if the
18 act indictable under section 1542 was committed for
19 the purpose of financial gain, section 1543 (relating
20 to forgery or false use of passport) if the act indict-
21 able under section 1543 was committed for the pur-
22 pose of financial gain, section 1544 (relating to mis-
23 use of passport) if the act indictable under section
24 1544 was committed for the purpose of financial
25 gain, section 1546 (relating to fraud and misuse of

1 visas, permits, and other documents) if the act in-
2 dictable under section 1546 was committed for the
3 purpose of financial gain, sections 1581–1588 (relat-
4 ing to peonage and slavery),” after “section 1513
5 (relating to retaliating against a witness, victim, or
6 an informant),”;

7 (3) by striking “or” before “(E)”; and

8 (4) by inserting before the period at the end the
9 following: “or (F) any act which is indictable under
10 the Immigration and Nationality Act, section 274
11 (relating to bringing in and harboring certain
12 aliens), section 277 (relating to aiding or assisting
13 certain aliens to enter the United States), or section
14 278 (relating to importation of alien for immoral
15 purpose) if the act indictable under such section of
16 such Act was committed for the purpose of financial
17 gain”.

18 **SEC. 8. WIRETAP AUTHORITY FOR ALIEN SMUGGLING IN-**
19 **VESTIGATIONS.**

20 Section 2516(1) of title 18, United States Code, is
21 amended—

22 (1) by striking “and” at the end of paragraph
23 (n),

24 (2) by redesignating paragraph (o) as para-
25 graph (p), and

1 (3) by inserting after paragraph (n) the follow-
2 ing new paragraph:

3 “(o) a felony violation of section 1028 (relating
4 to production of false identification documents), sec-
5 tion 1542 (relating to false statements in passport
6 applications), section 1546 (relating to fraud and
7 misuse of visas, permits, and other documents) of
8 this title or a violation of section 274, 277, or 278
9 of the Immigration and Nationality Act (relating to
10 the smuggling of aliens);”.

11 **SEC. 9. MISCELLANEOUS PROVISIONS.**

12 (a) USE OF ELECTRONIC AND TELEPHONIC MEDIA
13 IN DEPORTATION HEARINGS.—The second sentence of
14 section 242(b) of the Immigration and Nationality Act (8
15 U.S.C. 1252(b)) is amended by inserting before the period
16 the following: “; except that nothing in this subsection
17 shall preclude the Attorney General from authorizing pro-
18 ceedings by electronic or telephonic media (with the con-
19 sent of the alien) or, where waived or agreed to by the
20 parties, in the absence of the alien”.

21 (b) CODIFICATION.—

22 (1) Section 242(i) of such Act (8 U.S.C.
23 1252(i)) is amended by adding at the end the follow-
24 ing: “Nothing in this subsection shall be construed
25 to create any substantive or procedural right or ben-

1 efit that is legally enforceable by any party against
2 the United States or its agencies or officers or any
3 other person.”.

4 (2) Section 225 of the Immigration Technical
5 Amendments Act of 1994 (Public Law 103–416) is
6 amended by striking “and nothing in” and all that
7 follows through “1252(i))”.

8 (3) The amendments made by this subsection
9 shall take effect as if included in the enactment of
10 the Immigration Technical Amendments Act of 1994
11 (Public Law 103–416).

12 **SEC. 10. CONSTRUCTION OF EXPEDITED DEPORTATION RE-**
13 **QUIREMENTS.**

14 No amendment made by this title shall be construed
15 to create any substantive or procedural right or benefit
16 that is legally enforceable by any party against the United
17 States or its agencies or officers or any other person.

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